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09/124,043	07/29/1998	JOHN S. HENDRICKS	SEDN/5212	6239

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EXAMINER

LONSBERRY, HUNTER B

ART UNIT	PAPER NUMBER
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2623

MAIL DATE	DELIVERY MODE
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08/23/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/124,043

Applicant(s)

HENDRICKS ET AL.

Examiner

Hunter B. Lonsberry

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/6/07.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23,24,27,32-51 and 53-59 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23,24,27,32-51 and 53-59 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 23, 24, 27, 39-42, 49-51 and 53-59 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,003,384 to Durden in view of U.S. Patent 5,251,324 to McMullan, U.S. Patent 5,142,690 to McMullan and U.S. Patent 5,774,357 to Hoffberg.

Regarding claim 23, Durden discloses an apparatus that gathers programs watched data comprising:

a plurality of terminals (15) connected to televisions and a program delivery system (5,6,8,10), each terminal including a memory (21) that stores program access information (pay-per-view event information, col. 6, lines 48-65); and

a receiver (18) coupled to the plurality of terminals, the receiver receiving the program access information, wherein the program access information is stored as program watched data (col. 9, lines 7-54).

Durden fails to disclose if the programs watched data is recorded of counts, the counts corresponding to the number of times a program category is watched at the associated terminal, means for creating terminal group information indicating group assignments for the terminals using the programs watched counts, correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals, and means for transmitting the terminal group information to the terminals in a control information screen.

McMullan discloses transmitting at intervals data from receivers which include program access information (figures 5, 15-16, column 6, lines 11-24), as well as demographic information (column 9, lines 1-14) the channel the TV was tuned to, along with what the volume settings were are collected along with a time code in order to determine the audience for a particular program (column 23, lines 65-column 27, line 57)

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Durden to utilized the counts of McMullan, thus aiding a program provider in determining how popular a type of programming is, and aiding in determining when to air programming.

The combination of Durden and McMullan fails to disclose means for creating terminal group information indicating group assignments for the terminals using the programs watched counts, correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals and means for transmitting the terminal group information to the terminals in a control information screen and correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals.

McMullan discloses a system in which terminals are assigned to a group based upon buy rates or other factors associated with a group or subset of the entire population (column 21, lines 20-50) thus reducing data collisions by limiting when different groups communicate.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Durden and McMullan to utilize the assignment features as taught by McMullen for the advantage of reducing data collisions by limiting when different groups communicate.

The combination of Durden, McMullan, and McMullan fails to disclose correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals.

Hoffberg discloses a television system with an interface (column 34, lines 35-44) which tracks user programming selections and inputs through the use of a neural network processor and begins to recognize programming preferences (column 35, lines 1-67, column 42, lines 40-column 42, line 53) the system also recognizes various demographic groups, ages and education levels so that the interface best matches a users expectations (column 51, lines 15-50), the system is adaptable and recognizes when a user asks for help often and provides automatic contextual help (column 42, lines 10-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the combination of Durden, McMullan, and McMullan to utilize the neural network processor, and demographic features as taught by Hoffberg for the advantage of recognizing the frequency that a user asks for help and providing the appropriate level of help for that user.

Regarding claim 24, Durden discloses an apparatus that gathers programs watched data comprising:

a plurality of terminals (15) connected to televisions and a program delivery system (5,6,8,10), each terminal including a memory (21) that stores program access information (pay-per-view event information, col. 6, lines 48-65); and

a receiver (18) coupled to the plurality of terminals, the receiver receiving the program access information, wherein the program access information is stored as program watched data (col. 9, lines 7-54)

wherein the programs watched data is stored in a program watched matrix (column 9, lines 7-30, the data consist of two data points, thus forming a matrix), each terminal has its own matrix stored in volatile memory.

Durden fails to disclose a plurality of databases which include information from programs watched matrices, the information including terminal address group identifier and program counts, and viewer profile information and means for creating terminal group information indicating group assignments for the terminals using the programs watched matrices and means for transmitting the terminal group information to the terminals in a control information screen and correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals.

McMullan discloses transmitting at intervals data from receivers which include program access information (figures 5, 15-16, column 6, lines 11-24), as well as demographic information (column 9, lines 1-14) the channel the TV was tuned to, along with what the volume settings were are collected along with a time code in order to determine the audience for a particular program (column 23, lines 65-column 27, line 57)

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Durden to utilized the counts of McMullan, thus aiding a program provider in determining how popular a type of programming is, and aiding in determining when to air programming.

The combination of Durden and McMullan fails to disclose means for creating terminal group information indicating group assignments for the terminals using the programs watched matrices and means for transmitting the terminal group information to the terminals in a control information screen and correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals.

McMullan discloses a system in which terminals are assigned to a group based upon buy rates or other factors associated with a group or subset of the entire population (column 21, lines 20-50) thus reducing data collisions by limiting when different groups communicate.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Durden and McMullan to utilize the assignment features as taught by McMullen for the advantage of reducing data collisions by limiting when different groups communicate.

The combination of Durden, McMullan, and McMullan fails to disclose correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals.

Hoffberg discloses a television system with an interface (column 34, lines 35-44) which tracks user programming selections and inputs though the use of a neural network processor and begins to recognize programming preferences (column 35, lines

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1-67, column 42, lines 40-42, line 53) the system also recognizes various demographic groups, ages and education levels so that the interface best matches a users expectations (column 51, lines 15-50), the system is adaptable and recognizes when a user asks for help often and provides automatic contextual help (column 42, lines 10-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the combination of Durden, McMullan, and McMullan to utilize the neural network processor, and demographic features as taught by Hoffberg for the advantage of recognizing the frequency that a user asks for help and providing the appropriate level of help for that user.

Regarding claim 27, Durden discloses an apparatus that gathers programs watched data comprising:

a plurality of terminals (15) connected to televisions and a program delivery system (5,6,8,10), each terminal including a memory (21) that stores program access information (pay-per-view event information, col. 6, lines 48-65); and

a receiver (18) coupled to the plurality of terminals, the receiver receiving the program access information, wherein the program access information is stored as program watched data (col. 9, lines 7-54)

wherein the programs watched data is stored in a program watched matrix (column 9, lines 7-30, the data consist of two data points, thus forming a matrix), each terminal has its own matrix stored in volatile memory

a controller 10 is coupled to a plurality of terminals 15, the controller issuing a message directing each of the terminals to provide the program access information (PPV programs ordered for billing purposes), where in the message is a polling request message (the message determines when the terminal is to dial into the headend to provide the information, the message is sent over a cable line, and the message is returned via telephone (column 8, line 24-column 9, line 30)).

Durden fails to disclose if the response message includes a leading and trailing flag, an address field including the address of the terminal, a geographical region, terminal identifier, and means for creating terminal group information indicating group assignments for the terminals using the programs watched matrices and means for transmitting the terminal group information to the terminals in a control information screen and correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals.

McMullan discloses transmitting at intervals data from receivers which include program access information (figures 5, 15-16, column 6, lines 11-24), as well as demographic information (column 9, lines 1-14) the channel the TV was tuned to, along with what the volume settings were are collected along with a time code in order to determine the audience for a particular program (column 23, lines 65-column 27, line 57)

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Durden to utilized the counts of McMullan, thus aiding a program

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provider in determining how popular a type of programming is, and aiding in determining when to air programming.

The combination of Durden and McMullan fails to disclose means for creating terminal group information indicating group assignments for the terminals using the programs watched matrices and means for transmitting the terminal group information to the terminals in a control information screen and correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals.

McMullan discloses a system in which terminals are assigned to a group based upon buy rates or other factors associated with a group or subset of the entire population (column 21, lines 20-50) thus reducing data collisions by limiting when different groups communicate.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Durden and McMullan to utilize the assignment features as taught by McMullen for the advantage of reducing data collisions by limiting when different groups communicate.

The combination of Durden, McMullan, and McMullan fails to disclose correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals.

Hoffberg discloses a television system with an interface (column 34, lines 35-44) which tracks user programming selections and inputs through the use of a neural network processor and begins to recognize programming preferences (column 35, lines 1-67, column 42, lines 40-column 42, line 53) the system also recognizes various demographic groups, ages and education levels so that the interface best matches a users expectations (column 51, lines 15-50), the system is adaptable and recognizes when a user asks for help often and provides automatic contextual help (column 42, lines 10-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the combination of Durden, McMullan, and McMullan to utilize the neural network processor, and demographic features as taught by Hoffberg for the advantage of recognizing the frequency that a user asks for help and providing the appropriate level of help for that user.

Regarding claim 39, see claim 32, The combination of Durden and McMullan fails to disclose means for creating terminal group information indicating group assignments for the terminals using the programs watched matrices and means for transmitting the terminal group information to the terminals in a control information screen.

McMullan discloses a system in which terminals are assigned to a group based upon buy rates or other factors associated with a group or subset of the entire population (column 21, lines 20-50) thus reducing data collisions by limiting when different groups communicate.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the combination of Durden and McMullan to utilize the assignment features as taught by McMullen for the advantage of reducing data collisions by limiting when different groups communicate.

The combination of Durden, McMullan, and McMullan fails to disclose correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals and correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals..

Hoffberg discloses a television system with an interface (column 34, lines 35-44) which tracks user programming selections and inputs through the use of a neural network processor and begins to recognize programming preferences (column 35, lines 1-67, column 42, lines 40-column 42, line 53) the system also recognizes various demographic groups, ages and education levels so that the interface best matches a users expectations (column 51, lines 15-50), the system is adaptable and recognizes when a user asks for help often and provides automatic contextual help (column 42, lines 10-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the combination of Durden, McMullan, and McMullan to utilize the neural network processor, and demographic features as taught by Hoffberg

for the advantage of recognizing the frequency that a user asks for help and providing the appropriate level of help for that user.

Regarding claims 40 and 53, Durden discloses means 18 for extracting data from an information field of a program control information signal, where the extruded data includes program information (column 9, lines 12-27, 47-50),

Means for creating a polling request message 10 (column 9, lines 14-18) that directs a STB to initiate transmission of a STB status report,

Means for processing 8 for processing the received data to produce polling response data (column 9, lines 14-30, the data is used to bill a subscriber, column 4, lines 48-67),

Means for integrating 8 for integrating the response data with the extruded data from the information field of the program control information signal (column 9, lines 14-30, the number of IPPV events a user watches is utilized to bill a subscriber, column 4, lines 48-67),

Regarding claims 41 and 54, Durden discloses control receiving means 18 for demodulating the received STB status reports (column 7, lines 33-36, column 9, lines 31-34, processor 18 is connected to a number of phone lines),

means 18 for reading data from an information field of a program status report, where the extruded data includes program information (column 9, lines 12-27, 47-50),

temporary memory for accumulating the information fields for the STB, where the accumulated information produces the polling response data (column 9, lines 42-45, 61-65, the polling data is stored in memory prior to transmission).

McMullan is relied upon to teach sorting the polling response data (column 8, lines 55-66).

Regarding claims 42 and 56-57, Durden discloses means (column 6, line 60-column 7, line 5) for reading the programs watched counts, the counts are assigned to different times of the day for a program category (figure 8).

The combination of Durden and McMullan fails to disclose sorting the programs watched counts from highest to lowest.

The examiner takes official notice that sorting a database value from highest to lowest is notoriously well known in the art, for example in a Lotus 123. Sorting by high to low allows a user to readily recognize the best performing entry.

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Durden and McMullan to sort from highest to lowest, thus making it easy for a user to identify the best performing entry.

Regarding claims 49-50, see the discussion of claims 32-33 in conjunction with 39.

Regarding claim 55, Durden discloses in figure 1, that the processing means and database are linked, the polling response data is stored in the database and

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updated (column 7, lines 31-40, billing information is updated for the programs a user views).

Regarding claim 58, Durden discloses the polling information may be transmitted via a telephone.

Regarding claim 59 see claim 39.

3. Claims 32-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,003,384 to Durden in view of U.S. Patent 5,251,324 to McMullan and U.S. Patent 5,774,357 to Hoffberg.

Regarding claim 32, Durden discloses a system that gathers programs watched data in a TV delivery system, comprising:

Means 10 for gathering programs watched data from one or more terminals 15 in a broadcast delivery system (column 8, lines 24-34, column 9, lines 14-20)

A database 19 that stores the gathered programs watched data (column 9, lines 24-27),

Means for counting 20 for counting the programs watched by a terminal and arranged in a matrix (column 9, lines 7-30),

Means for transmitting 10 the STB group information to the set top terminal in a control information stream that instructs the STB in selecting videos to display (column 9, line 66-column 10, line 17).

Durden fails to disclose counts corresponding to the number of times a program is watched, group assignment information that correlates counts with categories of videos, which may be sent to a terminal and correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals.

McMullan discloses transmitting at intervals data from receivers which include program access information (figures 5, 15-16, column 6, lines 11-24), as well as demographic information (column 9, lines 1-14) the channel the TV was tuned to, along with what the volume settings were are collected along with a time code in order to determine the audience for a particular program (column 23, lines 65-column 27, line 57)

Therefore, it would have been obvious to one skilled in the art at the time of invention to modify Durden to utilized the counts of McMullan, thus aiding a program provider in determining how popular a type of programming is, and aiding in determining when to air programming.

The combination of Durden and McMullan fails to disclose correlating the programs watched counts with categories of data wherein the data categories include demographic data and wherein the data categories are available for providing programming to the terminals.

Hoffberg discloses a television system with an interface (column 34, lines 35-44) which tracks user programming selections and inputs through the use of a neural network processor and begins to recognize programming preferences (column 35, lines 1-67, column 42, lines 40-42, line 53) the system also recognizes various demographic groups, ages and education levels so that the interface best matches a users expectations (column 51, lines 15-50), the system is adaptable and recognizes when a user asks for help often and provides automatic contextual help (column 42, lines 10-31).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the combination of Durden and McMullan to utilize the neural network processor, and demographic features as taught by Hoffberg for the advantage of recognizing the frequency that a user asks for help and providing the appropriate level of help for that user.

Regarding claim 33, Durden discloses means 18 for extracting data from an information field of a program control information signal, where the extracted data includes program information (column 9, lines 12-27, 47-50),

Means for creating a polling request message 10 (column 9, lines 14-18) that directs a STB to initiate transmission of a STB status report,

Means for processing 8 for processing the received data to produce polling response data (column 9, lines 14-30, the data is used to bill a subscriber, column 4, lines 48-67),

Means for integrating 8 for integrating the response data with the extruded data from the information field of the program control information signal (column 9, lines 14-30, the number of IPPV events a user watches is utilized to bill a subscriber, column 4, lines 48-67).

Regarding claim 34, Durden discloses means 8 for reading data files using the access means , wherein the database files are relationally keyed to one another through STB id numbers (column 6, lines 43-61, the ID is utilized to bill and authorize a user)

Means for formatting 10 the poling request message where the mess includes at least one STB id number (column 6, lines 48-52),

Means for enabling 10 at least one polling command bit in the formatted polling request message, wherein the enabled polling command bit commands transmission of the STB terminal status report (column 6, lines 47-61).

Regarding claim 35, Durden discloses control receiving means 18 for demodulating the received STB status reports (column 7, lines 33-36, column 9, lines 31-34, processor 18 is connected to a number of phone lines),

means 18 for reading data from an information field of a program status report, where the extruded data includes program information (column 9, lines 12-27, 47-50),

temporary memory for accumulating the information fields for the STB, where the accumulated information produces the poling response data (column 9, lines 42-45, 61-65, the polling data is stored in memory prior to transmission).

The Examiner takes Official Notice (supported by the previous citation of McMullan), that sorting by STB id is notoriously well known in the art. Sorting by STB ID number makes it easy to locate records by a well known identifier.

Therefore, it would have been obvious to one of ordinary skill in the art to modify Durden to sort the information by STB id number for the advantage of making it easy to find a particular record by a well known identifier.

Regarding claim 36 Durden discloses in figure 1, that the processing means and database are linked, the polling response data is stored in the database and updated (column 7, lines 31-40, billing information is updated for the programs a user views).

Regarding claim 37, Durden discloses the use of a telephone return pathway.

The combination of Durden and McMullan fails to disclose the use of an RF demodulator.

The examiner takes official notice that the use of an RF demodulator on a return path is notoriously well known in the art. An RF demodulator on a return path allows a user to transmit commands to the headend without having to utilize a telephone and paying the associated fees with a telephone service.

Therefore it would have been obvious to one skilled in the art at the time of invention to modify the combination of Durden and McMullan to utilize an RF demodulator on a return path, thus enabling a user to transmit upstream commands without a telephone.

Regarding claim 38, Durden discloses a telephone may used to receive data transmissions from a user (column 7, lines 37-39).

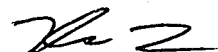
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hunter B. Lonsberry whose telephone number is 571-272-7298. The examiner can normally be reached on Monday-Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on 571-272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Hunter B. Lonsberry

Primary Examiner

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HBL